

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**JONATHAN JASON RODRIGUEZ,**

Plaintiff,

v.

**WARD KING, LIEUTENANT JASON  
DUCHEK, DAVID SCHOTTS, RODNEY  
HILLMICK, TRAVAS KAMMERZELL,  
GEORGE EDDY, MICHAEL POPE, and  
ALBERT HAZEN,**

Defendants.

Case No. 2:19-cv-00441-AR

**ORDER ADOPTING F&R**

Jonathan Jason Rodriguez, Portland, OR. Pro Se.

Michael R. Washington, Oregon Department of Justice, 1162 Court Street NE, Salem, OR 97301. Attorney for Defendants.

**IMMERGUT, District Judge.**

On September 26, 2023, Magistrate Judge Jeff Armistead issued his Findings and Recommendation (“F&R”), ECF 69, recommending that Defendants’ Motion for Summary Judgment, ECF 40, be GRANTED in part and DENIED in part. No party filed objections. This Court ADOPTS Magistrate Judge Armistead’s F&R.

### LEGAL STANDARDS

Under the Federal Magistrates Act (“Act”), as amended, the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). If a party objects to a magistrate judge’s F&R, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R that are not objected to. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act “does not preclude further review by the district judge, *sua sponte*” whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

### CONCLUSION

No party having filed objections, this Court has reviewed the F&R, ECF 69, and accepts Judge Armistead’s conclusions. Judge Armistead’s F&R, ECF 69, is adopted in full. Accordingly, this Court GRANTS Defendants’ Motion for Summary Judgment, ECF 40, as to Defendants Shotts, Hillmick, Hazen, Eddy, Pope, and Kammerzell. But this Court DENIES summary judgment to King and Duchek on Plaintiff’s excessive force claims, and DENIES summary judgment to Duchek on Plaintiff’s deliberate indifference claim.

**IT IS SO ORDERED.**

DATED this 19th day of October, 2023.

/s/ Karin J. Immergut  
Karin J. Immergut  
United States District Judge